



FIRST-TIER TRIBUNAL

SOCIAL SECURITY

Held at Runcorn

on 14th May 2014

Before Judge D. M. Taylor

Appellant: [REDACTED]	Tribunal Ref. SC121/14/00106 NI no: [REDACTED]
Respondent: Halton Borough Council	

STATEMENT OF REASONS FOR DECISION

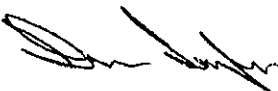
This statement is to be read together with the decision notice issued by the tribunal

1. This was an appeal by Miss [REDACTED] against decisions by Halton Borough Council that she and her daughter lived in a 3 bedroom social sector property, [REDACTED]. As a result, the council, in accordance with the provisions of Regulation B13 of the Housing Benefit Regulations 2006, applied a 14% reduction to the eligible rent in the calculation of Miss [REDACTED] entitlement to housing benefit in a series of decisions dated 11.3.2013, 3.10.2013 and 18.3.2014. In the latter decision the council accepted that paragraph 4 (1) (a) of Schedule 3 of the Housing Benefit and Council Tax Benefit (Consequential Provisions) Regulations 2006 had applied to Miss [REDACTED]. As a consequence the council revised its two earlier decisions and awarded housing benefit based on the actual rent for [REDACTED] without any reduction for a third bedroom from 1.4.2013 to 2.3.2014. The reduction under Regulation B13 was applied by the council from 3.3.2014, as the exemption no longer applied from that date. The issue before the tribunal was whether or not that was a correct decision.
2. Miss [REDACTED] originally lodged an appeal through her representatives, RAISE, by letter dated 16.12.2013 against a decision "made on or after 1st April 2013" (page 17 in the bundle of appeal papers). Mr. Summers of RAISE confirmed by email that Miss [REDACTED] wished to appeal against the council's decision of 3.3.2014 (p.19). There was no dispute about how the council had applied the Consequential Provisions Regulations to [REDACTED]. [REDACTED] argued that [REDACTED] should have been treated as a two bedroom property and that there should have been no reduction applied under Regulation B13.
3. In reaching its decision the tribunal took account of all the scheduled evidence. It also had the benefit of hearing from [REDACTED] and her representative. The council was not represented at the hearing.
4. [REDACTED] lived with her daughter, [REDACTED], whose date of birth was [REDACTED]. [REDACTED] also attended the hearing in a mobility scooter. Her GP had confirmed that she suffered from "severe physical and learning disability" (p.14). Her Occupational Therapist confirmed that she had a "profound and multiple learning disability (PMLD), Smith Leni Optiz Syndrome (a rare genetic condition), visual impairment (congenital cataracts), and skin prone to burns and blistering – photosensitivity. [REDACTED] has poor mobility and is unable to walk. [REDACTED] is incontinent of urine and faeces. [REDACTED] condition is a life limiting condition" (pp.12-13). The tribunal accepted this medical evidence based as it would have been upon personal knowledge of [REDACTED] and access to records. Miss [REDACTED] is [REDACTED] carer.

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5. [REDACTED] rented [REDACTED] from LHT, a social landlord. She has always been the sole tenant of the property since moving into it about 21 years ago. It is a disability adapted bungalow. It had 3 bedrooms. Although only [REDACTED] and [REDACTED] have been living in the property for several years, Miss [REDACTED] had moved in with them. He had occupied the third bedroom. He left the property in the 1990s. [REDACTED] and her daughter has a bedroom each.
6. [REDACTED] described what had happened to the third bedroom. It has a TV set in it. A ball pit fills most of the space. The room is painted black and it has fairy lights on the ceiling. [REDACTED] relaxes in the ball pit looking up at the ceiling. The landlord has highered all of the electrical sockets in the room to half way up the wall. The Occupational Therapist described it as a "sensory room, which includes a soft play area and lighting effects, as a safe environment that [REDACTED] can relax and play in" (p.12). He commented that "we consider that the sensory room makes an essential contribution to supporting [REDACTED] safety, comfort and well being in the home". [REDACTED] mobilises around the bungalow by crawling and rolling. She is able to pull herself up on furniture and put herself at risk so that the sensory room was developed as a safe area for [REDACTED] to relax in. There is no door on this room because she had, on one occasion, become lodged behind the door and her mother could not get into her. [REDACTED] wheelchair is also kept in the room when she is settled elsewhere.
7. [REDACTED] told us that the Occupational Therapist had reported to LHT several years ago about the need for the electrical sockets to be highered so that [REDACTED] could not reach them. He had apparently explained to LHT that it was being used as a sensory room. LHT, in response, carried out the alterations 7 or 8 years ago. LHT had also carried out a number of other adaptations to the property, including putting covers over the radiators so that [REDACTED] did not burn herself, and placed dark film over windows on account of [REDACTED] photosensitivity. LHT would therefore have known for many years that what had originally been a third bedroom was no longer used as such.
8. There is no definition of what constitutes a bedroom within the regulations. In this case there was undoubtedly a third bedroom at the outset of the tenancy and for some years thereafter. However, that does not mean that it will always be a bedroom. Rooms can change use. The tribunal accepted Miss [REDACTED] evidence, which was straightforward and clear, about the current use of the room. This was supported by the Occupational Therapist's letter. The room has not been used as a bedroom, in the sense of a place where someone sleeps, for many years, probably for over 10 years. This was not a temporary change in use. The room has not lain empty but has been transformed into a sensory room which evidently has a vital role to play in [REDACTED] life. This has been known to the landlord which has carried out several adaptations at the property, including some in the sensory room itself, over the years since the sensory room was created. The tribunal concluded that what had been the third bedroom was no longer such and could not be regarded as having been such for many years.
9. [REDACTED] and [REDACTED] are entitled to a bedroom each under Regulation B13 (5). As there are only 2 bedrooms in [REDACTED] the eligible rent does not fall to be reduced under Regulation B13 (3) from 3.3.2014.

The above is a statement of reasons for the Tribunal's decision, under rule 34 of the Tribunal Procedure (First-tier Tribunal) (Social Entitlement Chamber) Rules 2008.

Signed Tribunal Judge: 	Date: 29/5/14
Statement issued to	Appellant on:
Typist: RP	Respondent on: 02/6/14